

**PATENT APPLICATION
DOCKET NO. 10012542-1**

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

INVENTOR(S): Robert Sesek

SERIAL NO.: 10/037,744

GROUP ART UNIT: 7359

FILED: November 9, 2001

EXAMINER: GREENE, DANIEL LAWSON

**SUBJECT: COMPENSATION FOR ELECTRONIC
DOCUMENT RETRIEVAL AND PRODUCTION**

U.S. PATENT AND TRADEMARK OFFICE
COMMISSIONER OF PATENTS
ALEXANDRIA, VA 22313

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE
TO RECEIVE OFFICE ACTION
37 CFR 1.181(a)**

The applicants respectfully request that the abandonment of application serial number 10/037,744 be withdrawn pursuant to MPEP 711.03(c)(I)(A). The notice of abandonment indicated a failure to respond to a restriction requirement mailed April 6, 2007. As indicated in the Declaration filed November 9, 2001, the correspondence address of the assignee of the application was listed as

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400.

The Hewlett-Packard Company never received the restriction requirement mailed April 6, 2007. The applicants request that the Patent Office reissue the restriction requirement

EVIDENCE OF NON-RECEIPT: To establish a showing of non-receipt of an Office action, one must provide a statement describing the system used for recording an Office action received at the correspondence address of record. The statement should establish that the docketing system is sufficiently reliable. MPEP 711.03(c)(I)(A). The Hewlett-Packard company uses a docketing system that is sufficiently reliable. The system allows for reports filtered by application number. One such report provides a mail log for a selected application. The mail log for the present application reveals that the restriction requirement mailed April 6, 2007 was not received at the correspondence address of record. That log however does indicate that the notice of abandonment was received. A copy of that mail log is provided as Exhibit A.

Furthermore, the image file wrapper at the Patent Office reveals that the mailing of the restriction requirement was returned as undeliverable on April 9, 2007. A copy of the file wrapper listing is attached as Appendix B.

TIMING: The notice of abandonment was mailed October 23, 2007. MPEP 711.03(c)(I)(C) states that a petition not filed within two months from the action complained of *may* but need not be dismissed as untimely. However, rather than

dismiss the petition, the MPEP also states that the Office may require a terminal disclaimer as a condition of granting the petition.

The present petition is being mailed two months and eighteen days after the notice of abandonment was mailed. The Applicant agrees to file a terminal disclaimer should such be a requirement of granting this petition.

CONCLUSION: The evidence provided establishes:

1. A search of the Hewlett-Packard Companies docketing system reveals that the restriction requirement mailed April 6, 2007 was not received at the correspondence address of record.
2. The file wrapper maintained at the Patent Office reveals that the restriction requirement was returned as non-deliverable.
3. Other correspondence, including the notice of abandonment, was received at the correspondence address of record.

This evidence leads one to a conclusion that either the Patent Office or the Postal Service mishandled the mailing of the restriction requirement. Accordingly, the Applicants request the withdrawal of the abandonment for the present application.

Respectfully submitted,
Robert Sesek

By /Jack H. McKinney/

Jack H. McKinney
Reg. No. 45,685

January 10, 2008

EXHIBIT A

Mail Log Report For Case 10012542-1
Appln. No. 10/037,744

Receipt Date	Base Date	Action Type	Item Name
Feb-07-2002	Feb-23-2002	US-USPTO Filing Receipt	
May-23-2003	May-15-2003	US-USPTO Publication	
Oct-30-2007	Oct-23-2007		Notice of Abandonment

EXHIBIT B



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Available Documents

Mail Room Date	Document Code	Document Description	Document Category	Page C
10-23-2007	ABN	Abandonment	PROSECUTION	
04-06-2007	RETMAL	Mailroom received mailroom received undelivered	PROSECUTION	
04-06-2007	CYRS	Requirement for Restriction/Election List of References cited by applicant and considered by examiner	PROSECUTION	
04-06-2007	1440	Information	PROSECUTION	
04-06-2007	FWOLM	Index of Claims	PROSECUTION	
05-12-2003	IDS	Disclosure Statement (IDS) Final	PROSECUTION	
05-12-2003	FOR	Foreign Reference	PRIOR ART	
05-12-2003	FOR	Foreign Reference	PRIOR ART	
05-12-2003	FOR	Foreign Reference	PRIOR ART	
05-12-2003	FOR	Foreign Reference	PRIOR ART	
11-09-2001	TRNA	Transmittal of New Application	PROSECUTION	
11-09-2001	SPEC	Specification	PROSECUTION	
11-09-2001	CLM	Claims	PROSECUTION	
11-09-2001	ABST	Abstract	PROSECUTION	
11-09-2001	DRW	Drawings, utility black and white line drawings	PROSECUTION	
11-09-2001	OATH	Oath or Declaration filed	PROSECUTION	

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Serial No. 10/037,744

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